

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554

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In the Matter of)
)
Cellular Service and Other Commercial)
Mobile Radio Services in the Gulf of)
Mexico)
)
Amendment of Part 22 of the Commission's)
Rules to Provide for Filing and Processing)
of Applications for Unserved Areas in the)
Cellular Service and to Modify Other)
Cellular Rules)

WT Docket No. 97-112

CC Docket No. 90-6

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

To: The Commission

**COMMENTS OF BELL SOUTH
CORPORATION**

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Date: July 2, 1997

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SUMMARY

BellSouth generally supports the notion of licensing cellular service to coastal regions of the Gulf of Mexico differently than the rest of the Gulf. Rather than establish a separate Coastal Zone, however, the Commission should merely extend land-based cellular MSA/RSA boundaries twelve miles into the Gulf. Land-based PCS licensees currently are entitled to serve areas within the proposed Coastal Zone. Regulatory parity requires that land-based cellular operators be afforded the same opportunity.

Incorporation of the Coastal Zone into existing MSAs and RSAs is consistent with the Commission's goal of ensuring seamless cellular service. Currently, service to the Gulf can only be provided by transmitters located on itinerant oil platforms. As a result, there is a patchwork of cellular service in Coastal Zone. If the Coastal Zone were incorporated into adjacent MSAs/RSAs, nearly ubiquitous service could be provided by land-based licensees to the Coastal Zone merely by increasing power or reconfiguring the antenna systems at existing sites.

Moreover, it would be administratively simpler if the Commission incorporated the proposed Coastal Zone into the existing land-based markets, rather than create a new market. The creation of a new market would result in mass confusion regarding existing extensions. Land-based licensees currently have extensions into the Gulf which should be grandfathered pursuant to Section 22.911. If the Coastal Zone is a single market, these extensions could create overlapping CGSAs because adjacent land-based licensees could have overlapping extensions into the Gulf. Neither party would have a superior right to claim the Gulf area as CGSA. If the Coastal Zone were incorporated into existing MSAs/RSAs, however, this problem would be eliminated. A cellular licensee with an existing extension which overlaps with an extension of an adjacent carrier would only be entitled to claim as CGSA that portion of its contour falling within its own market.

Under BellSouth's proposal to incorporate the proposed Coastal Zone into existing land-based cellular markets which abut the Gulf, unserved area licensing can begin expeditiously. The five year fill-in period associated with cellular markets has expired in nearly all markets that abut the Gulf and licensees in those markets have already filed system information update ("SIU") maps depicting the coverage in these markets, including Gulf coverage. After giving incumbent Gulf cellular licensees a short time to file SIU maps depicting their coverage within each MSA/RSA, as redefined, Phase II unserved area applications could be accepted. Phase II in these coastal areas would proceed like Phase II licensing in any other cellular market. Applicants would be required to propose a CGSA of at least 130 square kilometers and would be required to complete construction and commence operations within twelve months. To the extent more than one applicant applies for the same unserved area, or overlapping areas, the authorization for the area should be awarded pursuant to competitive bidding.

Consistent with existing cellular rules, incumbent Gulf licensees should be permitted to locate sites on land, unless the sites would be located in another licensee's CGSA or in a market for which the five year fill-in period has not expired. If a Gulf licensee proposes a site which would be located within another licensee's service area or a market for which the fill-in period has not expired, the Gulf licensee must first obtain the consent of the land-based licensee.

Finally, because incumbent Gulf cellular licensees provide service to oil rigs deep in the Gulf which are not capable of receiving service from land-based transmitters, BellSouth supports adoption of the Exclusive Zone.

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To: The Commission

COMMENTS

BellSouth Corporation ("BellSouth"), on behalf of its wireless subsidiaries and affiliates, hereby submits comments in response to the Commission's *Second Further Notice of Proposed Rule Making* in the captioned docket.¹ As discussed below, BellSouth supports adoption of an Exclusive Zone extending from twelve miles off the coast to the southern limits of the original Gulf of Mexico Service Area ("GMSA"). Incumbent GMSA licensees should be permitted to continue operations in the exclusive zone and should be allowed to define their CGSA as coterminous with the boundaries of the Exclusive Zone. BellSouth opposes adoption of a Coastal Zone. Rather than create a Coastal Zone, the Commission should incorporate this area into previously licensed land-based markets. Unserved area applications should be accepted for these areas, just like any other unserved area in the market. Consistent with existing cellular

¹ *Cellular Service and Other Commercial Mobile Radio Services in the Gulf of Mexico*, WT Docket No. 97-112, *Second Further Notice of Proposed Rule Making*, FCC 97-110, (April 16, 1997) ("*SFNPRM*").

rules applicable to both water and land-based markets, sites cannot be located in another carrier's market without consent.

BACKGROUND

In 1983, the Commission determined that it was feasible to provide cellular service within the Gulf of Mexico and that licenses would be issued for the provision of cellular service solely within the Gulf.² The Commission expressly stated, however, that all GMSA licenses would be "conditioned on noninterference with land-based cellular systems. Any offshore cellular system must therefore be designed to avoid significant service contour overlap with land-based systems. This may require that no transmitters are placed onshore. . . ."³

Nearly two years later, two licenses were granted to serve the GMSA. The Commission defined the inland border of the GMSA as the coastline⁴ and made clear that the GMSA definition excluded all inland areas from service by the GMSA licensees.⁵ Thus, land-based licensees were precluded from serving areas within the Gulf and GMSA licensees were prohibited from serving land area.

Although the Commission has acknowledged that "a large segment of the customer population will expect marine applications of cellular service," its current rules inhibit the ability

² See *Petroleum Communications, Inc.*, 54 Rad. Reg. (P&F) 2d 1020, 1022, 1024 (1983).

³ *Petroleum Communications, Inc.*, 54 Rad. Reg. (P&F) 2d at 1025.

⁴ *Petroleum Communications, Inc.*, 1985 LEXIS 2798, ¶ 21 (Aug. 14, 1985) (reference definition of coastline established in *U.S. v. Louisiana*, 363 U.S. 1, 66-67, n.108 (1960)). In *U.S. v. Louisiana*, the Court defined the coastline as follows: "the term 'shore' denotes the line of low-water mark along the mainland, while the term 'coast' denotes the line of the shore plus the line where inland waters meet the open sea." 363 U.S. at 66-67 n.108.

⁵ *Petroleum Communications, Inc.*, 1 F.C.C.R. 511 (1986).

of cellular licensees to provide such service. Section 22.911 precludes GMSA and land-based licensees from extending contours into another's market without the consent of the other party. 47 C.F.R. § 22.911(c) & (d). Moreover, GMSA licensees typically cannot acquire sites near enough to the coast to adequately serve coastal areas and, although land-based carriers could provide coastal service simply by increasing power at existing sites, GMSA licensees have traditionally protested such action. The result is the inability of either type of carrier to provide adequate coastal service. As one incumbent GMSA licensee recognized, service to coastal areas is of questionable viability and the public is harmed unless service is provided by onshore transmitters.⁶

In 1995, the Commission began licensing PCS systems. Although most commenters in the PCS docket urged the Commission to adopt MSAs and RSAs as PCS market boundaries, the Commission opted to use MTAs/BTAs because MSAs/RSAs create an "unnecessary fragmentation of natural markets," whereas MTAs/BTAs would permit "licensees to tailor their systems to the natural geographic dimensions" of the area.⁷ Unlike MSAs/RSAs, which were established by the Census Bureau and do not include water areas,⁸ MTAs/BTAs are drawn according to county lines which generally extend a number of miles into the Gulf.⁹ Thus, PCS licensees are entitled

⁶ *Petroleum Communications, Inc.*, 2 F.C.C.R. 3695, ¶ 5 (1987).

⁷ *Amendment of the Commission's Rules to Establish Personal Communications Systems*, GEN Docket No. 90-314, *Second Report and Order*, 8 F.C.C.R. 7700, 7730, 7732 (1993) ("*PCS Second Report*").

⁸ *See Petroleum Communications, Inc.*, 3 F.C.C.R. 399 (1988).

⁹ *PCS Second Report*, 8 F.C.C.R. at 7732.

to serve both land and Gulf areas.¹⁰ As a result of this regulatory regime, land-based PCS licensees are authorized to provide service to the Gulf, but land-based cellular licensees are not.

In the subject notice, the Commission proposes to revise its rules for providing cellular service in the Gulf and requests comment on rules for the provision of other wireless services in the Gulf.

I. THE COASTAL ZONE SHOULD BE INCORPORATED INTO EXISTING LAND-BASED MARKETS

BellSouth generally supports the notion of licensing cellular service to coastal regions of the Gulf differently than the rest of the Gulf. *SFNPRM* at ¶¶ 46-51. Rather than establish a separate Coastal Zone (*SFNPRM* at ¶¶ 3, 29-34), however, the Commission should merely extend land-based MSA/RSA boundaries twelve miles into the Gulf.

A. Regulatory Parity Requires That Cellular and PCS Licensees Have The Same Ability to Provide Service Within the Gulf

The Commission has held that “equaliz[ing] the regulatory requirements applicable to all mobile service providers by allowing competing operators to offer the same portfolio of service options and packages . . . is required by Congress’ mandate that comparable mobile services receive similar regulatory treatment.”¹¹ The FCC has also made clear that it views cellular and PCS as essentially fungible, and thus it made the service rules for both equally flexible.¹² Therefore, permitting land-based PCS licensees to provide service to the Gulf, while treating

¹⁰ See *Mobil Oil Telcom, Ltd.*, 11 F.C.C.R. 4115, 4116 n.10 (WTB 1996).

¹¹ *SMR Eligibility Order*, 77 Rad. Reg. 2d (P & F) at 440.

¹² *PCS Second Report*, 8 F.C.C.R. at 7715, 7725, 7727, 7732-33, 7742-47, 7764 & n.120.

land-based cellular licensees differently, is contrary to the FCC's announced policy of regulatory symmetry.

Broadband PCS licenses are granted on an MTA and BTA basis. The BTAs and MTAs are taken from the Rand McNally 1992 Commercial Atlas & Marketing Guide and are based on county lines.¹³ State law and judicial precedent, in turn, place county lines — and, therefore, incumbent PCS licensees' existing MTA/BTA boundaries — varying distances into the Gulf. For example:

- In Texas, county lines are based on the Three Marine League Line which extends nine nautical miles from the low-tide coastline;¹⁴
- In Louisiana, Gulf coast county lines (known as Parishes in Louisiana) extend a distance of three marine leagues from the Louisiana coast;¹⁵
- In Florida, Gulf coast county lines extend three marine leagues into the Gulf;¹⁶
- In Mississippi, county lines extend three geographic miles from the coast;¹⁷ and
- In Alabama, county lines extend three geographic miles from the coast.¹⁸

Thus, because MTAs mirror county lines, PCS licensees are entitled to provide service to coastal areas in the Gulf. PCS licensees paid substantial sums for their licenses and the amount paid was directly related to the perceived value of the relevant market. Any reduction in the size of a coastal MTA would constitute an ex post facto reduction in the value of the market.

¹³ See 47 C.F.R. § 24.202; Rand McNally 1992 Commercial Atlas & Marketing Guide, 123rd Edition, at 38-39; *PCS Second Report*, 8 F.C.C.R. at 7732.

¹⁴ *Texas v. Louisiana*, 410 U.S. 702 (1973); Tx. Nat. Res. §§ 11.012(a), 11.013(a) (1996).

¹⁵ La. Rev. Stat. §§ 49.1, 49.6 (1997).

¹⁶ Fla. Const., Art. II § 1(a).

¹⁷ *United States v. Louisiana*, 470 U.S. 93, 95 (1984).

¹⁸ *United States v. Louisiana*, 470 U.S. at 95.

Consistent with this conclusion, the Wireless Telecommunications Bureau (“Bureau”) has stated:

Unlike cellular mobile service, there is no [separate] PCS licensee for the water areas of the Gulf of Mexico. Entities eligible to serve the Gulf of Mexico are the licensees of BTAs bordering the Gulf.¹⁹

The Bureau also acknowledged that PCS licensees were likely to use oil rigs for the provision of such service.²⁰

Regulatory parity requires that similarly situated cellular licensees be afforded the same opportunity as PCS licensees to serve the Gulf. Congress mandated regulatory parity to “ensure that the marketplace — and not the regulatory arena — shapes the development and delivery of mobile services to meet the demands and needs of consumers. . . .”²¹ To comply with this requirement, the Commission must revise technical and operational rules, where appropriate, to assure that licensees in substantially similar services are subject to similar regulation.²² As cellular and PCS are substantially similar services, cellular licensees in markets adjacent to the Gulf should be afforded the opportunity to serve customers within the Gulf. Without this ability, PCS licensees will have a substantial marketing advantage over cellular licensees in markets adjacent to the Gulf.

To equalize the treatment between similarly situated licensees, BellSouth proposes that, for purposes of FCC licensing, the borders of all wireless markets extend the same distance into

¹⁹ *Mobil Oil Telcom, Ltd.*, 11 F.C.C.R. at 4116 n.10.

²⁰ *Mobil Oil Telcom*, 11 F.C.C.R. at 4116.

²¹ *Implementation of Sections 3(n) and 332 of the Communications Act*, GN Docket No. 93-252, *Third Report and Order*, 9 F.C.C.R. 7988, 8002, 8004 (1994) (“*Third Report*”).

²² *Third Report*, 9 F.C.C.R. at 8004.

the Gulf. Under such a proposal, cellular, PCS, and other wireless land-based licensees will be afforded the same opportunity to serve coastal areas of the Gulf and the artificial marketing advantages afforded PCS carriers by the current regulatory regime will be eliminated.

B. Incorporating the Proposed Coastal Zone Into Existing Land-Based Cellular Markets Will Benefit Consumers

The Commission proposes to create a separate cellular market for the provision of service to the first twelve miles off the Gulf coast. *SFNPRM* at ¶¶ 29-32. Rather create a separate market, the Commission should extend land-based cellular and all other wireless market boundaries twelve miles into the Gulf. Such action would be consistent with regulatory parity²³ and is consistent with the Commission's goal of ensuring seamless cellular service.²⁴ Seamless service would be promoted because service throughout this area can be provided by land-based transmitters instead of itinerant oil platforms. *SFNPRM* at ¶ 31. Accordingly, BellSouth supports adoption of a twelve mile zone for the provision of cellular service to the coastal areas of the Gulf.

If the Coastal Zone remained part of the incumbent Gulf carriers' cellular systems, service to coastal areas would likely be delayed. GMSA licensees have had more than five years to provide service to coastal areas and, for the most part, have elected not to do so. The Commission's previous attempt to encourage these incumbents to provide service in the Coastal Zone

²³ As discussed above, PCS market boundaries already extend varying distances into the Gulf.

²⁴ *Amendment of the Commission's Rules to Provide for Filing and Processing of Applications for Unserved Areas in the Cellular Service*, CC Docket No. 90-6, *First Report and Order and Memorandum Opinion and Order on Reconsideration*, 6 F.C.C.R. 6185, 6187 (1991).

was struck down by the D.C. Circuit.²⁵ If GMSA licensees retain the right to serve coastal areas of the Gulf, service will depend largely on the location of oil rigs.²⁶ As a result, a patchwork of service will be created in the Coastal Zone.

Conversely, by incorporating the Coastal Zone into existing cellular markets adjacent to the Gulf, the Commission will facilitate the provision of cellular service to previously unserved areas of the Gulf at the lowest cost to subscribers.²⁷ Land-based licensees could provide nearly ubiquitous service to the Coastal Zone merely by increasing power or reconfiguring the antenna systems at existing sites. In any event, it will be easier for land-based licensees to obtain any additional sites necessary to provide coverage to the Coastal Zone than it would be for incumbent GMSA licensees, who must rely primarily on oil platforms.

Cellular service provided by the land-based cellular licensees to coastal areas certainly would be less expensive than if provided by incumbent GMSA licensees.²⁸ The majority of traffic in the Coastal Zone is local marine traffic, comprised of fishing and pleasure craft traveling to and from home ports located within the boundaries of land-based MSAs/RSAs. It

²⁵ *Petroleum Communications, Inc. v. FCC*, 22 F.3d 1164 (D.C. Cir. 1994).

²⁶ Although the Commission proposes to permit Coastal Zone licensees to place transmitters on land, they may only do so with the consent of the land-based licensee. *SFNPRM* at ¶ 40. Given the interference problems associated with permitting an adjacent Coastal Zone licensee to locate a site on land, service to the Coastal Zone will continue to depend on oil rigs and platforms unless land-based licensees are permitted to serve the area.

²⁷ To the extent areas within the Coastal Zone are currently being served by incumbent Gulf licensees, the service is only temporary in nature and land-based licensees would be entitled to apply to serve the area once the oil platform on which the incumbent licensee is based relocates.

²⁸ *SFNPRM* at ¶ 34. As the Commission noted, the cost of service provided by incumbent Gulf licensees traditionally is higher than the cost of cellular service from land-based carriers. *Id.*

would not be in the public interest to require these boaters to pay expensive roamer charges or to subscribe to the more expensive service provided by Gulf carriers. Land-based carriers currently provide service to harbors and inland waters within the land-based MSAs/RSAs. These carriers could easily extend such service to the Coastal Zone, at lower prices than GMSA licensees, to create seamless coverage from marinas and inland waterways to areas within the Coastal Zone. For years, cellular carriers along the east and west coasts have been providing this type of coverage to boaters in the Atlantic and Pacific Oceans.²⁹ The public interest would be served by allowing land-based carriers along the Gulf to provide similar service offerings.

C. Incorporating The Proposed Coastal Zone Into Existing Land-Based MSAs/RSAs Would Prevent Confusion

It would be administratively simpler if the Commission incorporated the proposed Coastal Zone into the existing land-based markets, rather than create a new market. If a new market were created, the Commission would have to establish unserved area filing deadlines for the new market. These deadlines have already been established for land-based markets.

The creation of a new market also would result in mass confusion regarding existing extensions. Land-based licensees currently have extensions into the Gulf which should be grandfathered pursuant to Section 22.911. If the Coastal Zone is a single market, these exten-

²⁹ See, e.g., Gordon West, *New Product Pick: Cellular Telephones*, Boating Industry, Oct. 1986, at 58 (“[P]resent seaward cellular telephone coverage will allow mariners cruising up and down the Pacific or Atlantic coast almost uninterrupted coverage within 20 miles of shore.”). See generally Patricia Miller, *The West Coast Class of 1995 Gets Ready to Ship Out*, Cruising World, Sept. 1995, at 49 (discussing the availability of cellular service for boaters along the West Coast); Gordon West, *Cellular Phones Should Not Replace Your VHF*, Trailer Boats, Oct. 1994, at 20 (comparing the advantages of utilizing VHF transceivers to cellular phones along the U.S. coastlines); *U.S. West to Offer Premier Coverage on the Water*, PR Newswire, Apr. 28, 1992, available in LEXIS, Nexis Library, ALLNWS File (discussing roll out of new services).

sions could create overlapping CGSAs because adjacent land-based licensees could have overlapping extensions into the Gulf. Neither party would have a superior right to claim the Gulf area as CGSA. If the Coastal Zone were incorporated into existing MSAs/RSAs, however, this problem would be eliminated. A cellular licensee with an existing extension which overlaps with an extension of an adjacent carrier would only be entitled to claim as CGSA that portion of its contour falling within its own market. The remaining portion of the extension would be a grandfathered *de minimis* extension into the adjacent market. Similarly, GMSA licensees would not be permitted to claim as CGSA any area served by the land-based licensee for the market as redefined. The GMSA licensee should only be permitted to continue operations on a “grandfathered” basis. Once the oil platform on which the incumbent is based moves, the incumbent would lose its right to continue operations within the CGSA of the land-based licensee.

Moreover, the public interest would be served by encouraging cellular carriers to provide service from existing locations, rather than constructing additional sites.³⁰ If the Coastal Zone were a separate market, however, the Commission would encourage the construction of an entirely new system, or at a minimum new sites, to serve the Coastal Zone, which would be far more expensive than merely increasing power at existing sites within land-based markets.

In sum, the Commission should incorporate the Coastal Zone into the adjacent land-based MSAs and RSAs. because: (i) PCS licensees are authorized to provide service within the Coastal Zone; (ii) cellular carriers on the east and west coasts can provide service to boaters traveling in the waters adjacent to their markets; (iii) incumbent cellular licensees in markets adjacent to the

³⁰ Cf. *SFNPRM* at ¶ 36.

Gulf can provide service to much of the Coastal Zone without constructing numerous additional facilities; and (iv) the cost of and charges for service provided by GMSA licensees to the Coastal Zone is likely to be more expensive than if it were provided by land-based carriers.

II. THE COMMISSION SHOULD COMMENCE CELLULAR PHASE II UNSERVED AREA LICENSING IN COASTAL AREAS OF THE GULF

To facilitate the provision of cellular service to coastal Gulf areas, BellSouth urges the Commission to commence Phase II unserved area licensing. Under BellSouth's proposal to incorporate the proposed Coastal Zone into existing land-based cellular markets which abut the Gulf, unserved area licensing can begin expeditiously. The five year fill-in period associated with cellular markets has expired in nearly all markets that abut the Gulf and licensees in those markets have already filed system information update ("SIU") maps depicting the coverage in these markets. The maps depict all previously authorized extensions into the Gulf. By incorporating the proposed Coastal Zone into the land-based MSAs/RSAs, all of these extensions should be incorporated into the CGSA of the filing party.³¹ The Commission should give incumbent GMSA licensees sixty days from issuance of the order in this proceeding to file SIU maps which depict their actual coverage within each MSA/RSA, as redefined. GMSA licensees should be entitled to incorporate any areas where they are providing service, and which remain unclaimed

³¹ *Accord SFNPRM* at ¶¶ 27, 36. In the case of overlapping extensions, the cellular licensee for the market containing the extension would be entitled to claim the area as CGSA. The other overlapping extension(s) should be "grandfathered" and entitled to remain.

by land-based licensees,³² into their CGSA for the Exclusive Zone.³³ Any areas not depicted as served by these SIU maps would be available for immediate Phase II licensing.

Phase II in these coastal areas would proceed like Phase II unserved area licensing in any other cellular market. Applicants would be required to propose a CGSA of at least 130 square kilometers (47 C.F.R. § 22.951) and would be required to complete construction and commence operations within twelve months. To the extent more than one applicant applies for the same unserved area, or overlapping areas, the authorization for the area should be awarded pursuant to competitive bidding. 47 C.F.R. § 22.949; *see SFNPRM* at ¶¶ 27; 47 U.S.C. § 309(j).

III. INCUMBENT GMSA LICENSEES SHOULD BE PERMITTED TO USE LAND-BASED TRANSMITTER LOCATIONS

Consistent with existing cellular rules, GMSA licensees should be permitted to locate a site on land, unless the site would be located in another licensee's CGSA or in a market for which the five year fill-in period has not expired. *SFNPRM* at ¶ 40. If a GMSA licensee proposes a site which would be located within another licensee's service area or a market for which the fill-in period has not expired, the GMSA licensee must first obtain the consent of the land-based licensee. Moreover, even if the site would be located in unserved area, the consent of

³² To the extent the contours of a land-based cellular licensee and incumbent Gulf licensee overlap, only the land-based licensee should be entitled to claim the area as CGSA. Given the temporary nature of cellular service provided from oil platforms, the incumbent GMSA licensee should only be permitted to continue operations on a "grandfathered" basis.

³³ Although these areas would be incorporated into the CGSA for the Exclusive Zone, the incumbent Gulf licensee must continue providing service to the area to retain it as CGSA. If the incumbent Gulf licensee reduces power or shuts down the facility, the licensee must file a revised SIU map to place interested parties on notice that the area has become available for unserved area licensing. Of course, the same analysis applies for land-based cellular licensees.

a land-based licensee would be required if the proposed site would produce a contour which would extend into the land-based licensee's CGSA. A *de minimis* claim would not obviate the need for the land-based licensee's consent because *de minimis* extensions are no longer permitted in virtually any markets. The five year fill-in period for nearly all land-based markets adjacent to the coastal areas have expired. Thus, any extensions into these markets will be into the CGSA of the land-based licensee or into unserved area. If contours extend into another carrier's CGSA, they are only permitted with the consent of the adjacent carrier, in which case the extensions are no longer *de minimis* but contract extensions.³⁴ To the extent the extensions are into an unserved area, they are impermissible.³⁵

There is no right to build a site which is located, or produces an extension, within another licensee's CGSA. The right of a licensee to refuse permission for such a site is absolute. *See* 47 C.F.R. § 22.912(d)(2)(ii). Accordingly, should GMSA licensees be permitted to use land-based sites, the Commission should make clear that it will not entertain complaints from these licensees asserting that land-based licensees are precluding them from using such sites by withholding consent. With proper coordination and planning, GMSA licensees and potential applicants for unserved coastal areas should not have difficulty utilizing land-based sites.

³⁴ *See Baton Rouge MSA Limited Partnership*, 8 F.C.C.R. 2889, n.2 (CCB 1993) (indicating that an extension becomes a contract extension, rather than *de minimis*, if consent is obtained). Contract extensions should continue to be permitted.

³⁵ *See* 47 C.F.R. § 22.912 (indicating that extensions into areas not served by an adjacent licensee are permitted only during the five year fill-in period).

IV. ADOPTION OF AN EXCLUSIVE ZONE WILL ALLEVIATE CONFLICT BETWEEN LAND- AND WATER-BASED CELLULAR LICENSEES AND WILL PROVIDE INCUMBENT GMSA LICENSEES WITH REGULATORY FLEXIBILITY

As the Commission has recognized, incumbent GMSA licensees face unique challenges in the provision of cellular service. *SFNPRM* at ¶¶ 28, 46, 49. Because these licensees provide service to oil rigs deep in the Gulf, land-based transmitters are not capable of providing adequate service to many locations. Service to these areas is generally provided via transmitters placed on the oil rigs. *SFNPRM* at ¶ 46. Because oil rigs are transient in nature, however, sites necessary for the provision of service are temporary and the service areas of Gulf carriers are in a constant state of flux. *Id.*

BellSouth supports the creation of an Exclusive Zone in which GMSA licensees can continue to offer service to oil rigs, many of which are incapable of receiving adequate service from land-based transmitters. *SFNPRM* at ¶¶ 47-49. Because of the difficulties associated with serving oil rigs deep in the Gulf, BellSouth supports the Commission's proposal to make the CGSA of incumbent Gulf licensees co-terminus with the boundaries of the Exclusive Zone for the duration of the license terms.


Creation of the Exclusive Zone also will minimize frequency coordination problems between land-based and incumbent Gulf licensees. Given the large demand for service along coastal highways and beaches, land-based cellular carriers have been reluctant to permit *de minimis* extensions from Gulf carriers into their markets. By extending the MSA/RSA borders twelve miles into the Gulf, it is likely that land-based carriers will be more amenable to *de minimis* extensions. Demand for service in this twelve mile area will be considerably less than demand on shore. Thus, interference and frequency reuse concerns would be minimized.


CONCLUSION

For the foregoing reasons, BellSouth urges the Commission adopt the policies expressed herein.

Respectfully submitted,

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